IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2370 OF 2005

Lourdes B. Nihalani & Ors. ... Petitioners

Versus

Divisional Joint Registrar of

Co-operative Societies, Mumbai & Ors. Respondents

Mrs. Rita Bhatia for the Petitioners.

Mr. C.J. Sawant a/w Mr. S.P.Kanuga i/b. Anita Bhaktawani for Respondent No.4.

Mr. Milind More, AGP, for Respondents Nos.1, 2 & 5.

CORAM: S.K.SHAH,J.

DATE : 3rd October,2005.

P.C.

1. Notice, returnable forthwith and the Writ Petition

is taken up for hearing by consent of the parties.

2. Heard. The learned Counsel for the Petitioners has specifically raised the point that the Petitioners were not given an opportunity of being heard by the Divisional Joint Registrar while passing the order. I have also perused the Roznama produced which has been incorporated in the Synopsis. It mentions that on 5.7.2005, the Appeal was admitted after hearing the Advocates representing the parties and the matter was placed for hearing arguments on 14.7.2005. The Roznama dated 14.7.2005 however only records the presence of the Advocates and closed for orders.

3. The learned Counsel for the Petitioners specifically submitted that on 14.7.2005, no arguments were heard. The Advocate, Mr. Sharma representing the Petitioners has filed an affidavit that no arguments were heard by the Divisional Joint Registrar of Co-operative Societies. It is, therefore, clear that the appellate Authority has passed the order without giving an opportunity of being heard to the Petitioners

as well as the Respondents and, therefore, the order is vitiated by the principles of natural justice. The order therefore has to be set aside.

4. The Writ Petition is allowed. The impugned is set aside. The matter is remanded back to the appellate Authority - Divisional Joint Registrar of Co-operative Societies, Mumbai, for deciding the Appeal afresh after giving to both the parties an opportunity of being heard.

5. The order impugned in the Appeal shall not be implemented during the pendency of the Appeal.

6. The parties shall appear before the appellate Authority on 17.10.2005. It is expected that the appellate Authority shall decide the Appeal expeditiously within one month.

(S.K.SHAH,J.)